

**Draft Summary of the Plenary Group Meeting  
Oroville Facilities Relicensing (FERC Project No. 2100)  
November 19, 2002**

The Department of Water Resources hosted a meeting for the Plenary Group on November 19, 2002 in Oroville.

A summary of the discussion, decisions made, and action items is provided below. This summary is not intended to be a transcript, analysis of the meeting, or to indicate agreement or disagreement with any of the items summarized, except where expressly stated. The intent is to present a summary for interested parties who could not attend the meeting. The following are attachments to this summary:

Attachment 1	Meeting Agenda
Attachment 2	Meeting Attendees
Attachment 3	Flip Chart Notes
Attachment 4	Process Update
Attachment 5	Meeting Abstracts
Attachment 6	Tentative Study Plan Interim Report Schedule
Attachment 7	November 21, 1983 FERC Order
Attachment 8	Instream Flow Agreement between DWR and the Department of Fish and Game
Attachment 9	Process Protocol Task Force Update
Attachment 10	Fisheries Presentation

### **Welcome and Introductions**

Attendees were welcomed to the Plenary Group meeting and objectives were discussed. The Facilitator noted a change in the draft agenda because the Flood Management Update originally scheduled for this meeting would be deferred to a later meeting allowing DWR to work out some details with the Army Corps of Engineers over their portion of the update. The meeting agenda and list of meeting attendees with their affiliations are appended to this summary as Attachments 1 and 2, respectively. Meeting flip chart notes are included as Attachment 3.

Nan Nalder representing the State Water Contractors requested a copy of today's handouts/presentations be mailed to her office, along with the notebook that was distributed at the October 22, 2002 Plenary Group meeting. The Facilitator agreed to mail copies of the documents and notebook to Nan.

### **Process Update**

#### *Where We Are in the Process*

Mark Andersen with DWR reminded the participants where we are in the FERC relicensing process. His presentation is included as Attachment 4 to this summary. Mark informed the Plenary Group that DWR and the consulting team are working on implementing study plans, Final Scoping Document 1 has been completed, and the development of Protection, Mitigation and Enhancement measures is about to begin at the Work Group level. Mark discussed the near-term schedule for December 2002 and January 2003 Plenary Group meetings. Ron Davis asked if the items Mark mentioned were "locked in" for the Plenary Group meetings or if there was some flexibility. Mark responded that the presented items were currently scheduled but other items could be added to the agendas.

Rick Ramirez with DWR discussed the Plenary Group Milestones portion of the Process Update presentation. Rick reviewed the Plenary Group's participation in three concurrent pathways: the Study Implementation/Settlement Process, the Environmental Document/Application; and Regulatory Integration. Rick asked to defer any questions regarding the Plenary Group Milestones to the next meeting.

Patrick Porgans, representing JEM Farms, reminded the Plenary Group that he has some issues he would like placed on a future agenda including two additional items which he will forward to the Facilitator. Patrick's primary focus is to make sure we all understand what we are doing and that we are on track. He would rather not be rushed into decisions until he is comfortable that his questions have been answered and he understands some aspects of the process better. He agreed to send his revised draft of proposed agenda topics to the Facilitator.

Ken Kules, representing Metropolitan Water District of Southern California, inquired about approval mechanisms that must be followed by stakeholders before the collaborative could sign any settlement such as resolutions from the Board of Supervisors that will be necessary before Butte County can sign any settlement agreement. He asked whether the scheduled milestones considered those needs. Rick Ramirez responded that the Process Task Force would ensure all approval mechanisms are in place as the task force is moving forward.

The Facilitator reminded the Plenary Group that abstracts covering work group meetings held since the last Plenary Group meeting are provided with the Plenary Group meeting agenda and full summaries of those meetings are available on the Relicensing web site. The abstracts are provided as Attachment 5 to this summary.

#### **Action Items – October 22, 2002 Plenary Group Meeting**

A summary of the October 22, 2002 Plenary Group meeting is posted on the relicensing web site. The Facilitator reviewed the status of action items from that meeting as follows:

**Action Item # P100:** Query database to generate report indicating which studies will have results available in December.

**Responsible:** DWR

**Status:** DWR distributed a document titled "Tentative Study Plan Interim Reports Schedule for December 2002 and January 2003" to the Plenary Group. The schedule is included as Attachment 6 to this summary. Rick Ramirez stated that the dates shown on the schedule are the dates stakeholders can expect to see the listed reports. Roger Masuda representing Butte County asked that the list be annotated in the future so stakeholders have some idea what the study deliverable is, such as a literature review, study survey results, etc.

**Action Item # P101:** Provide copy of agreement or license amendment for in-stream flow requirements.

**Responsible:** DWR

**Status:** DWR provided the Plenary Group with copies of both the November 21, 1983 FERC Order and the agreement between DWR and DFG regarding in-stream flows. The FERC Order and DWR/DFG agreement are included with this summary as Attachments 7 and 8, respectively. Richard Roos-Collins representing American Rivers asked if there was a

correlation between the FERC Order and the agreement between DWR and DFG. Rick Ramirez explained that the two documents are linked; DWR and DFG came to an agreement and that agreement was placed in the FERC Order. Patrick Porgans asked if his copy of the original license included this agreement. Rick Ramirez responded that the agreement is a 1983 amendment to the original license. The Facilitator invited the participants to review both documents and to ask questions at a future meeting. Art Angle representing Enterprise Rancheria said that 40 acres of land under Lake Oroville was tribal land and that the original license stated tribal people should be compensated for the loss of land. Art asked if this issue is included in this amendment. The Facilitator responded that this amendment dealt with an agreement between DFG and DWR for flows downstream of the Project facilities to support biological resources and did not address any tribal issues.

**Action Item # P102:** Convene Process Task Force prior to next Plenary Group meeting.

**Responsible:** DWR

**Status:** The Task Force held their first meeting on November 15, 2002. Rick Ramirez provided the Plenary Group with a Process Task Force Update. His presentation is included as Attachment 9 to this summary. The list of participants was included in the presentation and revised to include Patrick Porgans who was a participant of the Task Force but was not listed. Ron Davis asked to be included as a participant for the meetings. Cathy Hodges will forward information about Process Task Force meetings to Ron.

Rick reviewed the "Process and Timeframe" schedule and said that comments from the first meeting would be summarized and sent back to the participants and that a strawman proposal would be distributed at the scheduled November 25, 2002 Task Force meeting. Michael Pierce representing Butte County asked how long they had to comment on the protocols. Rick responded that ideally the Task Force would aim to have the framework back to the Plenary Group in February 2003 so the work groups have the guidance during PM&E development. Michael wanted to know if comments received after November 25 would be included. Rick said comments received after November 25 would be included but the preference would be to receive them sooner. The Facilitator asked if the Work Groups could expect to get the PM&E framework from the Task Force before February and Rick reiterated that was the goal.

Patrick Porgans identified PM&E measures as key products of great significance and importance to him and said he thinks their development is moving too fast. He expressed his frustration with the amount of work and review necessary to keep up with this process and suggested individual stakeholders are at a disadvantage when compared to the water contractors, agencies and DWR, all of which have more resources. Rick reminded the group that the Task Force is meant to include people experienced in developing strawman proposals for processes such as these and that the Task Force was trying to follow the same approach as was successfully used for developing the Process Protocols. The work will come back to the Plenary Group for review and approval.

Rick also reminded participants that the Task Force is not developing PM&E measures themselves but instead are developing a process for Work Groups to develop PM&E measures in a consistent manner. Michael Pierce said an e-mail was sent from Roger Masuda to the consulting team addressing the County's concerns at this stage of the process regarding both the development of PM&E measures and cumulative impacts. Michael suggested the protocols be broad enough to address all the County's issues. Vince Wong representing Zone 7 Water Agency asked for "check in points" or interim updates from the Task Force to the Plenary Group so the Plenary Group can track their progress and all information is not submitted to the Plenary Group for review at one time.

**Action Item # P103:** Provide presentation graphics to participants prior to next Plenary Group meeting and track Plenary decisions that need to be made in one location.

**Responsible:** DWR

**Status:** DWR was unable to distribute the graphics for today's meeting prior to the meeting but intends to begin distributing DWR/consulting team presentations in advance when possible. Earlier in the meeting, Rick Ramirez discussed the Plenary Group Milestones that grouped plenary decisions in one location as part of the Process Update.

**Action Item # P104:** Provide addendums and/or revisions related to F9 discussion in September meeting summaries to Facilitator.

**Responsible:** NMFS and DFG

**Status:** The Facilitator asked Eric Theiss, representing the National Marine Fisheries Service, the status of the addendum and/or revisions he was going to provide relating to the F9 discussion contained in the September 2002 meeting summaries. Eric indicated he had not yet revised the summaries but planned to do so soon.

### **Meeting Summary Revisions**

The Facilitator distributed copies of the May 1, 2001 Process Protocols developed by the collaborative and suggested that the participants review them. The Process Protocols are on the relicensing web site, <http://orovillerelicensing@water.ca.gov>, under "Documents". The Facilitator noted that the Process Protocols describe how meeting summaries are prepared and posted on the relicensing web site for review as well as the process for revisions if necessary. She reminded participants that the summaries are not meant to be transcriptions or minutes, but rather to summarize what happened at the meeting, and include any agreements made and action items.

Eric Theiss, representing NMFS, suggested that copies of the summary from the previous meeting could be distributed to the Plenary Group for approval at the beginning of each Plenary Group meeting. Patrick Porgans agreed that a review of what was done at prior meetings is important. Patrick suggested that discussion and approval of the meeting summaries could be first on the Plenary Group's agenda. Harry Williamson, representing National Park Service, countered that reviewing meeting summaries should be the responsibility of each stakeholder and a formal review during a Plenary Group meeting would be a waste of time. He added that

the intent of the summaries is to maintain the consultation record for the process and if an individual participant has revisions to be made that will help clarify the record, there is already a process in place to do that. Roger Masuda suggested e-mailing/mailling the last meeting summary with the next month's meeting announcement. Eric Theiss agreed with Roger's suggestion, but felt two weeks was not an adequate amount of time to respond with meeting summary revisions. The Facilitator noted that in practice the deadline is very flexible. Ron Davis suggested reviewing the notes taken by the Plenary Group note taker at the end of each meeting. Richard Roos-Collins representing American Rivers suggested this issue be referred to the Process Task Force for further discussion. The participants agreed that the Process Task Force should discuss this issue. Rick Ramirez asked participants to send him their concerns so that he could provide them to the Process Task Force for consideration.

### **Meeting Cancellation Policy**

The Facilitator described the process currently used within work groups to cancel meetings. She explained that the work group participants discuss next steps at the end of each meeting and determine if the next meeting scheduled would be a good use of their time. If not, the work group participants agree to cancel the meeting, agree when they will next meet, and a notice is posted on the web site. Eric Theiss cited that participants had canceled an Environmental Work Group meeting after he left the meeting so he had no chance to voice his concerns. Richard Roos-Collins suggested this protocol also be referred to the Process Task Force for discussion. Ken Kules expressed concern that the Task Force was already facing an ambitious schedule and added objectives (such as meeting summary revisions and meeting cancellation policies) could impede needed progress on Settlement Process Protocols. Rick Ramirez again asked the participants to e-mail him their thoughts/comments on the current meeting cancellation protocol before November 25, 2002 so he can present them to the Task Force for consideration at their November 25th meeting.

### **Teleconference Arrangements**

Rick Ramirez stated that DWR is continuing to look for a solution to the teleconference situation but was not sure it could technically be resolved on DWR's end. Rick suggested the participants consider holding more meetings at DWR's Sacramento Headquarters where better equipment is available. Rick suggested alternating meetings between Sacramento and Oroville. Eric Theiss reported that the sound became better once the Facilitator began to use the mute button on the phone between comments so noise generated in the room was not interfering with reception by the people on the phones.

Art Angle representing Enterprise Rancheria asked who comprises the consensus group. The Facilitator referred him to the Process Protocols where consensus is defined, but Art responded that the definitions were too vague. Ward Tabor, DWR's Assistant Chief Counsel, said that the original Process Protocol Task Force agreed to use the definition of consensus used by FERC; where we use the technique of negative polling to see if participants can live with a decision. He agreed it was not perfect but up to this point, it seems to have been successful and allowed this collaborative to agree on 71 study plans. The current Process Task Force is discussing what new guidelines need to be established for use during the settlement negotiations. Patrick Porgans asked if it was one vote per entity or one vote per individual because he sees many DWR employees around the table. Rick Ramirez responded that DWR would respond with one voice. Art said he would discuss this with the Tribal Council and relay any questions they have back to the Plenary Group.

### **Study Plan F9 Update**

Rick Ramirez provided an update on F9 to the Plenary Group. Rick stated that DWR and NMFS had an off-line meeting to resolve the remaining two issues related to fish disease and straying. DWR has sent a draft letter to NMFS outlining DWR's understanding of the resolution of these two outstanding issues. Eric Theiss stated that NMFS is preparing a response to the draft letter sent by DWR. Rick added that resolution of these two issues would not result in any changes to the study plan as written. Eric responded that the study plan is not approved in NMFS' opinion until these issues are resolved.

### **FERC Visit Update**

Rick Ramirez gave a brief summary on DWR staff's recent trip to Washington, DC. Rick reported that DWR members met with FERC staff, National Oceanic and Atmospheric Administration management; the Assistant Deputy Secretary with the Department of Interior; and the Commissioner for the Bureau of Reclamation. Rick explained that these meetings were considered "meet and greet" meetings to provide information on our relicensing process.

### **Scoping Document 2 Components Discussion**

Ward Tabor led a discussion on Scoping Document 2 (SD2) components. He reviewed two slides from his October 22, 2002 Plenary Group presentation – (posted as an attachment to the October 22, 2002 Plenary Group meeting summary on the relicensing web site). Ward reminded the participants that Scoping Document 1 (SD1) contained a Project Description but DWR intends to put together a more complete description in SD2. He explained that a key item missing from SD1 was a complete description of the alternatives to the proposed actions. He mentioned that SD2 is a guide for the team to prepare an appropriate environmental document. Key components of the environmental document are the Project Description and the alternatives identified to meet the Purpose and Need Statement. He added that the screening criteria currently under discussion in the Process Task Force would help describe how alternatives are developed. The screening criteria will be used by the Work Groups to help them identify potential PM&E measures. Draft screening criteria, currently being discussed by the Process Task Force, would analyze whether a proposed measure: 1) is related to an impact; 2) has nexus to Oroville Facilities; 3) has a clear, definable long-term benefit that is feasible and effective; and 4) has no re-directed impacts.

Ward discussed the development schedule for SD2 and informed the participants that draft SD2 would be available to the Plenary Group sometime in January 2003. He added that a more complete Project Description should be available sooner. Final SD2 should be available in February 2003 with a 60-day public comment period to close sometime in April 2003. At that point, DWR and DWR consultants would gather comments for use in developing the environmental document.

Ron Davis felt that unless studies are finished, stakeholders would not have information needed for the development of PM&E measures. Ron also suggested SD2 should be like SD1 and include all public proposals. Ward explained that SD2 is not designed to screen PM&E measures; it is a blueprint for the environmental document. Potential PM&E measures will be reviewed for feasibility by applying a sense of logic and need. Eric Theiss requested a revision to allow for openness to proposed PM&E measures with little screening. Michael Pierce was concerned that there appears to be no place for non-jurisdictional items. Roger Masuda felt that the April 2003 date was too soon and asked when the stakeholders would need to provide

detailed PM&E measures for inclusion in the Draft EIS/EIR. Ward replied that April 2003 is a good target date but it is not a definitive deadline. Nan Nalder, representing the State Water Contractors suggested that we should not be concerned about a cutoff date; we should be concerned about having PM&E measures detailed enough for evaluation.

Ron Davis asked if studies were the only way to establish the need for a PM&E measure. Ward said not necessarily, but any proposed measure does need to address an identifiable resource goal. Ward reminded the participants that there would be many opportunities for stakeholders to identify ways for mitigating impacts. Eric Theiss suggested that the collaborative solicit PM&E measures right now. Ward concluded the discussion by suggesting the stakeholders submit proposed PM&E measures as soon as possible.

### **Fisheries Presentation**

Terry Mills, Michael Perrone, and Eric See with DWR provided the participants with an update on Fisheries activities. The presentation is included as Attachment 10 to this summary. Terry Mills, DWR Environmental Resource Area Manager, provided an overview of DWR's FERC-related fishery activities. He outlined some of the regulatory players and their responsibilities and reviewed the types of fisheries and fishery data collected. He used an example graphic showing Fall-run Chinook salmon return data spanning almost 50 years to indicate the amount of information that is available. Referring to the graphic, Michael Pierce asked why there were so many fish in the fall run year 2000. Terry replied that it could have been a wet year or there could have been more constraints on ocean harvests but right now they do not know how these components fit together to contribute to return numbers.

Michael Perrone provided a brief overview of DWR fish studies in the Feather River. He noted that some of the studies began three to four years before the relicensing process. Patrick Porgans asked about salmon habitat and the aggregate gravel material necessary for salmon spawning in the Feather River. Michael responded that the location and quantity of spawning gravels could be issues addressed by a proposed PM&E measure if studies show this could address an impact from the project. Ron Davis asked if there is any study that includes the lamprey fish, an anadromous fish that used to be in the Feather River in great numbers. Michael replied that 45 species were going to be studied including lamprey. Michael added that the Feather River is ahead of most west coast rivers in terms of data available. Michael Pierce asked if there were any low flow channel studies. Michael Perrone responded that investigations in the low flow channel are included in several studies.

Eric See from DWR's Oroville Field Division discussed the fisheries in the Project waters. He described Lake Oroville as a two-story fishery, with both warm and cold water components. Eric explained that fish stocking has been the most significant project over the last 10 years; since 1993, 83 percent of which has been funded by DWR. DFG and DWR have determined that 170,000 is the ideal stocking number for Lake Oroville and also determined that Coho Salmon is resistant to fish diseases found in the lake. Lake Oroville is also stocked with a Florida largemouth bass strain cultured locally by a private vendor.

Art Angle asked if there are any studies on natural spawning above Oroville Dam. Art also asked if there is anything happening that could be affecting the salmon's physical appearance. Eric responded that there is a study plan looking at upstream habitat and Michael Perrone added that they are looking for changes in the physical appearance in hatchery fish. Ken Kules asked whether there is any evidence that salmon are spawning upstream of Oroville Dam.

Eric See said that during studies of the potential habitat upstream he has not seen spawning activity but he has seen individual fish upstream of the lake. Roger Calloway with DPR asked if there were any studies showing that fish have always strayed. Michael Perrone responded that it is pretty well documented that fish stray and probably have for some time. Roger Masuda asked if the studies proposed would address all the important data. Michael Perrone suggested that the Environmental Work Group feels they have addressed the needs adequately through these studies. Eric Theiss added that he felt pretty pleased with everything planned so far but he felt there were still some issues to be resolved. He added that he would like to see the hatchery change from a production hatchery to a conservation hatchery. Cathy Hodges, representing Equestrian Trail Riders/Hikers asked why the Diversion Pool is not planted with fish. Eric See stated that the FERC order is for Lake Oroville only; that other waters are the responsibility of DFG, so they would need to answer that question. Eric added that DFG has a regular stocking program for the Forebay.

### **Next Steps**

The Facilitator noted that the next meeting was scheduled for December 10, less than one month away. She reminded the participants that the December agenda currently is scheduled to include a FERC presentation on project economics and an update from the Process Task Force. She also noted that the Flood Management presentation was rescheduled for a future meeting. Ward Tabor stated that FERC would not be attending a Plenary Group meeting until January 28, 2003 so the FERC economics presentation will be scheduled for that meeting. He added that the Flood Management presentation was also trying to reschedule for the January 28th meeting. He suggested that the only item on the December agenda would be a Process Task Force update.

Cathy Hodges requested that a discussion on Interim Projects be part of December's Plenary Group agenda. She feels the Plenary Group should discuss what Interim Projects are being implemented vs. what was agreed to. Rick Ramirez stated that DWR was considering the Interim Projects on an item-by-item basis based on the recommendations of the Plenary Group. The Facilitator stated that the Recreation and Socioeconomics Work Group was scheduled to receive an update from DWR but that update has been delayed due to staffing at the Field Division. She suggested that the Recreation and Socioeconomics Work Group would be a better place to discuss any issues related to the Interim Projects. Ron Davis requested 45 minutes be set aside on the Recreation Work Group agenda for a discussion on Interim Projects. Patrick Porgans asked that someone from the Recreation and Socioeconomics Work Group provide an update on this issue to the Plenary Group at some future date.

The Facilitator suggested switching the December Plenary Group meeting to a conference call since the agenda is short. Roger Masuda suggested also changing the date of the December meeting to an early January date and then having the regularly scheduled January meeting later in the month. The participants agreed to reschedule the December 10, 2002 Plenary Group meeting to January 7, 2003 and to hold the meeting as a conference call. The Plenary Group will also meet on January 28, 2003.



### **Next Meeting**

The Plenary Group agreed to meet on:

Date: January 7, 2003  
Time: 4:30 p.m. to 6 p.m.  
Location: via toll-free conference call-in

### **Action Items**

The following action items identified by the Plenary Group include a description of the action, the participant responsible for the action, and due date.

**Action Item #P105:** Send binder from October Plenary Group meeting and handouts to Nan Nalder.

**Responsible:** Facilitator/DWR

**Due Date:** January 7, 2003

**Action Item #P106:** Annotate study deliverables on lists to identify briefly what deliverable includes.

**Responsible:** DWR/consulting team

**Due Date:** January 7, 2003

**Action Item #P107:** Show interim updates by the Process Task Force on the Task Force schedule.

**Responsible:** DWR/consulting team

**Due Date:** January 7, 2003

**Action Item #P108:** Provide opinions on meeting summary and meeting cancellation protocols to Rick Ramirez for discussion at Process Task Force meeting.

**Responsible:** Plenary Group participants

**Due Date:** November 25, 2002